

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**Crim. Action No.: 1:21-CR-27-5
(Judge Kleeh)**

JUSTIN PAUL THOMPSON,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO. 338],
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

On June 30, 2022, the Defendant, Justin Paul Thompson ("Thompson"), appeared before United States Magistrate Judge Michael J. Alois and moved for permission to enter a plea of **GUILTY** to Count Nine of the Indictment, charging him with Distribution of Methamphetamine in Proximity to a Protected Location, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 860(a). Thompson stated that he understood that the magistrate judge is not a United States District Judge, and Thompson consented to pleading before the magistrate judge.

This Court referred Thompson's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

USA v. THOMPSON

1:21-CR-27

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO. 338],
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

Based upon Thompson's statements during the plea hearing, and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Thompson was competent to enter a plea, that the plea was freely and voluntarily given, that Thompson understood the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. The magistrate judge issued a *Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [ECF No. 338] finding a factual basis for the plea and recommending that this Court accept Thompson's plea of guilty to Count Nine of the Indictment.

The magistrate judge directed that the United States Marshals Service return Thompson to the custody of the State of West Virginia. Should Thompson be released from custody of the State of West Virginia, he shall be released on the terms of the Order Setting Conditions of Release previously filed by this Court [ECF No. 274].

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a

USA v. THOMPSON

1:21-CR-27

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO. 338],
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

judgment of this Court based on the R&R. Neither Thompson nor the Government filed objections to the R&R.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R [ECF No. 338], provisionally **ACCEPTS** Thompson's guilty plea, and **ADJUDGES** him **GUILTY** of the crime charged in Count Nine of the Indictment.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence investigation report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall undertake a presentence investigation of Thompson, and prepare a presentence investigation report for the Court;

2. The Government and Thompson shall each provide their narrative descriptions of the offense to the Probation Officer by **July 29, 2022**;

3. The presentence investigation report shall be disclosed to Thompson, his counsel, and the Government on or before **September 12, 2022**; however, the Probation Officer shall not disclose any

USA v. THOMPSON

1:21-CR-27

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO. 338],
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence investigation report on or before **September 26, 2022**;

5. Counsel's responses to objections to the presentence investigation report shall be filed on or before **October 3, 2022**;

6. The Office of Probation shall submit the presentence investigation report with addendum to the Court on or before **October 17, 2022**; and

7. Counsel may file any written sentencing memoranda or statements and motions for departure from the Sentencing Guidelines, including the factual basis for the same, on or before **October 31, 2022**.

The Court further **ORDERS** that prior to sentencing, Thompson's counsel shall review with him the revised Standard Probation and Supervised Release Conditions adopted by this Court on November 29, 2016, pursuant to the standing order entered by Chief Judge Groh, In Re: Revised Standard Probation and Supervised Release Conditions, 3:16-MC-56.

The Court will conduct the **Sentencing Hearing** for Thompson on **November 17, 2022**, at **12:30 p.m.**, at the **Clarksburg, West Virginia**,

USA v. THOMPSON

1:21-CR-27

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO. 338],
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

point of holding court. If counsel anticipates having multiple witnesses or an otherwise lengthy sentencing hearing, please notify the Judge's chamber staff so that an adequate amount of time can be scheduled.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and all appropriate agencies.

DATED: July 27, 2022

Tom S Klee

THOMAS S. KLEEH, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA